

S.B.CIVIL WRIT PETITION NO.4131/2007
(Dr.Shyam Bihari Gupta Vs. The Rent Tribunal, Udaipur & ors.)

DATED : 22nd August 2007

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.Siddharth Joshi for the petitioner
Mr.Om Mehta for the respondent No.2

The writ petitioner is defending a petition for eviction (Case No.58/2003) filed by his landlady and pending before the Rent Tribunal, Udaipur. Though a copy of the eviction petition has been filed with this writ petition as Annexure-1, but copy of the reply submitted by the petitioner has not been annexed; however, the fact that the present petitioner is a tenant in the premises in question seems not to be in dispute. It appears that this Court by the order dated 07.11.2006 passed in an earlier Writ Petition No.2824/2006 has expected the Tribunal to decide the matter within three months thereof.

While the matter was being proceeded in hearing before the Tribunal, the petitioner-tenant moved an application purported to be under Section 21(3) of the Rajasthan Rent Control Act, 2001 ('the Act of 2001') read with Order 13 Rule 3 CPC and Section 17 of the Indian Registration Act, 1908. By way of the said application (Annex.2) the writ petitioner, while referring to the rent note Ex.1, pointed out that the period of

lease was for five years; and there had not been any other document between the parties regarding the terms of lease. Thus, the petitioner contended that the document was compulsorily required to be registered; and for want of registration, the document was not admissible in evidence and was required to be rejected in terms of Rule 3 of Order 13 of the Code of Civil Procedure.

The learned Tribunal has proceeded to reject the said application by its order dated 24.05.2007 (Annex.5). The Tribunal has observed that the document in question is a unilateral rent note; and though provides for revision of rent in case of the tenancy continuing for a longer period, such document does not require registration. The Tribunal has proceeded to impose costs of Rs.3,000/- with reference to the order earlier made by this Court for expeditious disposal of the matter and for delay caused due to such baseless application moved by the tenant. The order dated 24.05.2007 (Annex.5) is sought to be questioned in this writ petition.

Learned counsel Mr.Joshi submitted that the Tribunal has been in error in not reading the document as a whole; and while referring to the contents of the document in question (Annex.4) submitted that the document clearly makes out that the premises were let out for a minimum period of five years.

Learned counsel contended that the Tribunal has merely read some part of the document but has omitted to consider other clauses to the effect that the premises were let out for at least five years and, according to the learned counsel, the document being of lease of immoveable property for term exceeding one year, it compulsorily required registration; and for want of registration, cannot be read in evidence. Learned counsel submitted that the consideration adopted by the Tribunal of the document being not signed by both the parties and being signed by the tenant only is entirely irrelevant; and if that be so, then the document cannot be taken into consideration at all. Learned counsel further submitted that the Tribunal has been in error in rejecting the submissions of the petitioner only because the case is required to be decided at an early date without examining the document and the requirements of law.

The respondent has appeared in caveat and learned counsel Mr.Om Mehta appearing for the respondent-landlady submitted that the document in question being a unilateral one does not require compulsory registration and the application moved only for the purpose of delaying the proceedings has rightly been rejected.

Having examined the record of the case, this Court is clearly of opinion that this writ petition remains absolutely

bereft of substance and deserves to be dismissed.

The objection raised against the document in question is fundamentally incorrect because the said document is not a lease of immoveable property for any term. The eviction petition states that the premises were delivered in possession under oral agreement on a rent of Rs.200/- per month on 01.07.1977; the rent was revised to Rs.350/- per month in the year 1988; and that the tenant executed a rent note in relation to the terms of tenancy. The document in question itself states (vide paragraph-2) that the premises in question have been taken by the tenant from the landlady under an oral agreement and at a monthly rent of Rs.200/-. The submission that the document has not been read as a whole is not correct. The learned Tribunal has considered the entire document including Clause-9 and has rightly observed that the same was relevant only towards the agreement for revision of rent. The document in question is a unilateral document signed only by the petitioner and not by the landlady and is not a lease deed but a rent note simpliciter, that too regarding terms of a monthly tenancy. The objection regarding its registration remains fundamentally baseless; and the Tribunal cannot be said to have erred in rejecting the application moved by the present petitioner.

The present petitioner is defending another petition for eviction (Case No.57/2003) and therein also moved a similar kind of application with reference to a similar kind of rent note and the same was also rejected by the same Tribunal by its order dated 29.05.2007. The said order was sought to be assailed by the petitioner in Writ Petition No.4127/2007 that is being decided by a separate order today; and therein this Court has pointed out with reference to the requirements of law particularly the procedure provided for dealing with the petition under the Act of 2001 that,-

"The procedure provided for dealing with such petitions under the Act of 2001 does not envisage decision on such interlocutory applications step by step, one by one. The time limit envisaged by the statute for decision of the petitions within 240 days of the date of service of notice on tenant [vide Section 15(5)] is meant for adherence rather than avoidance. Then, the Tribunal may hold such summary enquiry as it deems necessary [vide Section 15 (6)]. Section 21 of the Act as an integral part of the entire scheme of procedure in wide terms gives powers to the Rent Tribunal and the Appellate Rent Tribunal for the purpose of holding such summary enquiry and per sub-section (3) of Section 21, such Tribunals are not bound by the procedure laid down by the Code of Civil Procedure but are guided by the principles of natural justice, and subject to the other provisions of the Act or Rules thereunder have the powers to regulate their own procedure."

In the fact situation of the present case too where this Court expected as back as on 07.11.2006 for decision of the

matter within three months and looking to the requirements of the statute and the nature of application moved, it would have been discreet on the part of the Tribunal if such application were taken up for consideration only at the time of final hearing and not piecemeal. There does not appear any requirement under the scheme of dealing with the petitions for eviction that every such application be heard and decided separately.

Be that as it may, in the present case, as noticed above, the application has been rejected on valid and relevant considerations; and the order impugned is affirmed on merits. Though, ordinarily, imposing of excessive costs may not be justified; but in the circumstances of this case, the Tribunal cannot be faulted in imposing such costs on the petitioner for moving such a frivolous application.

The petition fails and is, therefore, rejected.

(DINESH MAHESHWARI),J.

MK